

these documents will convert the motion to dismiss to a motion for summary judgment. Docs. 30 at 3 n.6; 30-5.

RoadSafe is correct that the motion to dismiss must be converted to a motion for summary judgment. The motion to dismiss, G & S's response, and the subsequent reply and surreply briefs clearly require the Court to consider matters outside the pleadings. Accordingly, the Court converts RoadSafe's motion to one for summary judgment under Rule 56. See Fed. R. Civ. P. 12(d) ("If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56."). Because there appears to be no good faith basis for G & S to deny that RoadSafe has paid workers' compensation benefits, G & S shall respond to RoadSafe's converted motion for summary judgment **no later than July 21, 2022**. RoadSafe shall file an appropriate reply within fourteen days. The parties may incorporate by reference their arguments made in previously filed briefs. RoadSafe need not refile the documents it submitted with its reply brief. To the extent either party relies on any other matter outside of the pleadings, those items should be filed with the party's supplemental brief.

SO ORDERED, this 8th day of July, 2022.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT